

**Federal-State Joint Board on Universal Service
State Members**

May 20, 2003

Honorable Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW - Portals II, TW-A325
Washington, DC 20554
Re: Docket No. 96-45

Re: CC Docket 96-45, Second Ex-Parte
Recommendation on Universal Service Contribution
Mechanism from State Joint Board Members

Dear Secretary:

The State Members of the Universal Service Joint Board take this opportunity to offer further recommendations on potential changes to the federal universal service fund contribution mechanism. In its December 12, 2002 Order, the Federal Communications Commission (Commission) adopted several interim "fixes" to the existing revenue-based mechanism. It also sought further comment on three specific "connections"-based proposals that had been offered as long-term replacements. After reviewing these proposals, the parties' comments thereon, the financial estimates produced by the Commission's staff, and having spoken with representatives of USAC about the process for implementing various contribution mechanisms, we recommend continued reliance on telecommunications revenues as the basis for assessing federal universal service obligations. We also recommend substantially broadening the revenue categories subject to that assessment.

I. PRINCIPLES

In our prior letter, we suggested that several principles should guide development of the Commission's long-term contribution mechanism:

- Rate increases to end users should be minimized;
- Revisions to the contribution mechanism should yield stability and long-term sustainability;
- Contributions should be collected from as broad a base of contributors as feasible;
- The contribution mechanism should have the ability to accommodate reasonable growth in the size of the fund;
- USAC should be allowed sufficient time to implement any necessary systems changes; and
- The contribution mechanism should be competitively neutral.

We remain committed to these principles. In addition, we believe the contribution mechanism should be in compliance with the law. The mechanism should also be simple to administer, both for carriers and for USAC, and simple to audit and enforce. Ideally, the mechanism would impose few or no new reporting requirements on the industry. Finally, it should satisfy truth-in-billing principles and not distort consumer choice.

II. THE USE OF REVENUES AND BROADENING THE BASE

We recommend that the Commission retain telecommunications revenues as the basis for supporting universal service assessments. We believe revenues remain the most reasonable method of valuing services for universal service assessment purposes. Under a revenue-based system, consumers who use more telecommunications services contribute more to support universal service. Use of revenues also preserves the contribution methodology that carriers have used for the past six years.¹ It is essential to broaden the base of contributions so that eventually all forms of telecommunications are contributing to federal universal service programs. This broadening should entail several strategies, which we discuss below.

In order to ensure sustainability and to correct other limitations of the existing revenue-based system, we believe the revenue base for federal universal service assessments should be expanded to cover all or nearly all forms of telecommunications. However, because the Commission is currently considering the proper classification of broadband services, it may not yet be appropriate to take further action at this time concerning those services. (See NPRM issued in FCC Docket No. 02-33, *Appropriate Framework for Broadband Access to the Internet over Wireline Services*, released February 15, 2002). Nevertheless, we believe that collecting contributions from all providers of telecommunications is essential to the long-term viability of the universal service fund.

In recommending the use of total telecommunications revenues as the basis for federal USF collections, we propose that ultimately the Commission broaden the base of assessment to include revenues from intrastate telecommunications. This will promote fairness and competitive neutrality, and will simplify the contribution process for consumers and carriers.

Broadening the base for universal service contributions will protect the sustainability of the universal service fund from revenue fluctuations resulting from jurisdictional decisions that are legitimately made for other reasons. Broadening the base will better accommodate the technological changes in the communications industry. Moreover, we believe it to be in the best interests of preserving universal service that the program be designed to avoid financial incentives to classify services as intrastate in order to avoid contributing to the federal fund. In summary, we believe that a broad-based assessment for universal service, which encompasses all telecommunications revenues, will best sustain universal service programs as telecommunications markets continue to evolve.

While we believe that a total telecommunication revenues approach better meets our principles, we acknowledge the existing impediments to the implementation of this methodology. Given the decision in *Texas Office of Public Utility Counsel v. Federal Communications*

¹ A majority of the state Joint Board members earlier recommended a connections-based contribution mechanism. The record on this issue has been substantially developed since then. Based on that record, a majority of the State Members of the Joint Board now believes that a connections-based approach does not satisfy the principles referenced above.

Commission, 183 F. 3d 393 (5th Cir. 1999) , we do not believe that it is possible to assess intrastate revenues without a significant litigation risk, absent statutory changes to Section 254 of the Telecommunications Act.² Indeed, by letter dated May 19, 2003, to Senator Burns of Montana, we joined with our FCC colleagues on the Joint Board in recommending changes to Section 254 that would broaden the Commission's authority to assess all forms of telecommunications in order to support universal service.

III. CONCLUSION

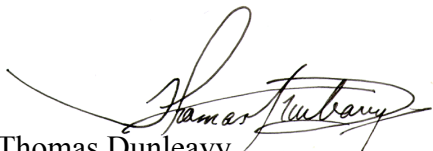
We conclude that the Commission should continue to use revenues as the assessment base for federal universal service contributions, and enlarge that base to include intrastate services and all other forms of telecommunications. To that end, we believe the Commission should seek new legislation to allow it to use a total telecommunications revenues (intrastate and interstate) contribution base. We appreciate the opportunity to contribute to the Commission's decision in this manner.



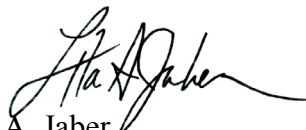
Nanette Thompson
Commissioner, Regulatory Commission of Alaska
State Chair of Joint Board



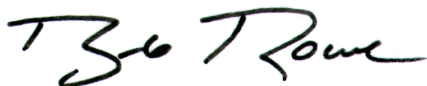
Billy Jack Gregg
Director, Consumer Advocate Division
West Virginia Public Service Commission



Thomas Dunleavy
Commissioner, New York Public Service Commission



Lila A. Jaber
Chairman, Florida Public Service Commission



Bob Rowe
Chairman, Montana Public Service Commission

cc: All FCC Commissioners

² In addition, we support modifying Section 254(f) to clarify that states may assess total telecommunications revenues within the state in order to fund state universal service funds.